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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,129	11/20/2003	Jeffery Michael Barnes	TUC920030145US1	2241
46917	7590	08/23/2005	EXAMINER	
KONRAD RAYNES & VICTOR, LLP. ATTN: IBM37 315 SOUTH BEVERLY DRIVE, SUITE 210 BEVERLY HILLS, CA 90212			SUN, SCOTT C	
			ART UNIT	PAPER NUMBER
			2182	

DATE MAILED: 08/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/719,129	BARNES ET AL.
	Examiner Scott Sun	Art Unit 2182

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 20 November 2003.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-24 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 5-8, 9, 13-16, 17, 21-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Reinemann (PG Pub US 2003/0115118 A1).

As per claim 1, Reinemann discloses a method for throttling data transfer, comprising; determining an amount of resources that are in use; (paragraph 11) When the amount of resources reaches a high threshold, notifying one or more primary control units to temporarily stop sending data; and (paragraphs 13, 25, 35)

When the amount of resources reaches a low threshold, notifying each previously notified primary control unit to resume sending data. (paragraph 21)

As per claim 5, Reinemann discloses the method of claim 1, wherein at least one of the resources is a cache (paragraph 11)

As per claim 6, Reinemann discloses the method of claim 1, wherein the amount is measured by a percentage (paragraph 16)

As per claim 7, Reinemann discloses the method of claim 1, wherein the one or more primary control units that are notified to temporarily stop sending data are selected based on an amount of resources being used by each primary control unit (paragraph 16)

As per claim 8, Reinemann discloses the method of claim 7, further comprising maintaining information on the amount of resources being used by each primary control unit (paragraph 11, 16)

As per claims 9, 13-16, 17, 21-24 the examiner finds these claims differ from the above rejected claims only in statutory category. The same arguments used in rejection of the above claims are applicable in rejection of these claims.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2, 10, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reinemann as applied to claims 1, 5-8 above, and further in view of applicant's admitted prior art.

In description of the related art submitted by the applicant discloses a method for throttling data transfer, wherein all primary control units are notified to temporarily stop sending data. (Figure 1; page 2, lines 8-15)

Applicant's description of prior art and Reinemann's invention are from the same field of shared resources management.

At the time of invention, it would have been obvious for a person of ordinary skill in the art to combine prior art described by the applicant and Reinemann's invention because it would allow Reinemann's system to notify all primary control units to stop sending data when resources are fully utilized and therefore incapable of handling additional requests.

As per claims 10 and 18 the examiner finds these claims differ from the above rejected claims only in statutory category. The same arguments used in rejection of the above claims are applicable in rejection of these claims.

5. Claims 3-4, 11-12, 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reinemann as applied to claims 1-2, 5-10, 13-18, 21-24 above, and further in view of Wong (PG Pub US 2004/0003069 A1).

As per claim 3, Reinemann does not disclose expressly the method of claim 1, further comprising: at a primary control unit, resuming sending data after a predetermined period of time has expired without receipt of notification to resume sending data.

Wong discloses at a primary control unit, resuming sending data after a predetermined period of time has expired without receipt of notification to resume sending data (paragraph 56)

As per claim 4, Reinemann does not disclose expressly the method of claim 1, further comprising: when the amount of resources used is above a final threshold, re-notifying the one or more primary control units to temporarily stop sending data.

Wong discloses when the amount of resources used is above a final threshold, re-notifying the one or more primary control units to temporarily stop sending data.

Reinemann's invention and Wong's invention are from the analogous art of shared-resource management and flow control in a computer system.

At the time of the invention, it would have been obvious for a person of ordinary skill to combine Wong's invention with Reinemann's invention by adding Wong's flow control algorithm to Reinemann's resource management system.

The motivation for doing so would have been to further reduce or eliminate congestion during transfer of data while providing flexibility to the system.

As per claims 11-12 and 19-20 the examiner finds these claims differ from the above rejected claims only in statutory category. The same arguments used in rejection of the above claims are applicable in rejection of these claims.

Art Unit: 2182

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Sun whose telephone number is (571) 272-2675. The examiner can normally be reached on M-F, 10am-6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dov Popovici can be reached on (571) 272-4083. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ss

8/15/2005

  
TAMMARA PEYTON  
PRIMARY EXAMINER